

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

John B. Stevens,

Case No. 3:05CV7264

Plaintiff

v.

ORDER

Toledo Police Department, et al.,

Defendant

This is a pro se prisoner civil rights suit in which the defendant alleges that he was improperly arrested and, during the course of the arrest, subjected to excessive force and injured.

Pending is plaintiff's motion to show cause and for sanctions to be imposed against the defendants for failure to comply with his discovery requests. Defendants have responded by stating that they have, in fact, provided discovery to the plaintiff. In addition, the City of Toledo defendants ask that plaintiff's reply to their responses be stricken.

So far as can be determined, the plaintiff complains that the defendants have not produced a verified copy of the criminal complaint originally filed against him. Assuming that the defendants have not done so, the plaintiff is not entitled to have them produce it. He can contact the Clerk of the Toledo Municipal Court and obtain a copy. Parties are not obligated to produce documents that are publicly available. *Bleecker v. Standard Fire Ins. Co.*, 130 F. Supp. 2d 726, 739 (E.D.N.C. 2000); *Securities and Exchange Comm'n v. Samuel H. Sloan & Co.*, 369 F. Supp. 994, 995 (S.D.N.Y. 1973).

Otherwise, and as the City's motion to strike points out, it appears that the discovery sought by the plaintiff relates to the validity of his conviction. That is not at issue in this case, and could

not be at issue in a § 1983 suit. “A state prisoner’s § 1983 action is barred... if success in that action would necessarily demonstrate the invalidity of confinement or its duration.” *Wilkinson v. Dotson*, 544 U.S. 74, 125 S.Ct. 1242, 1248 (2005).

Plaintiff also complains that the defendants have not informed him of the identity of the witnesses whom they will call at trial. After defendants have complied with the initial disclosure requirements, they need not identify which specific witnesses they will call until thirty days before trial. *Fed. R. Civ. P.* 26(a)(3).

Plaintiff has failed to show that the defendants have not complied with discovery obligations as required by law or this court’s orders.

It is, therefore,

ORDERED THAT:

1. Motion to show cause overruled; and
2. Motion to strike granted, insofar as plaintiff’s reply to defendants’ response to the plaintiff’s show cause motion seeks relief on the basis of his innocence of the offenses for which he was convicted.

So ordered.

s/James G. Carr
James G. Carr
Chief Judge